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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,897	06/25/2001	William L. Elderson	010214	9340

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/888,897

Applicant(s)
WILLIAM L. ELDERSON

Examiner
YVONNE M. HORTON

Art Unit
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 21, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-24, 27-37, 42, and 43 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-24, 27-37, 42, and 43 is/are allowed.
- 6) ☒ Claim(s) 1, 6-8, 11, and 12 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 9, 10, and 13-20 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 11 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,6 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,693,047 to MENCHETTI. MENCHETTI discloses the use of a stud bridging/spacing system including a bridging member (20) having a longitudinal axis (LA), see the marked attachment; and a bracket (26) having at least one notch (34), in the form of a plurality of serrations formed at a bottom edge thereof. *Serrations*, as defined by Webster's II New Riverside University Dictionary, is a plurality of "notches" or "tooth-like projections". Due to the fact that the bracket (26) of MENCHETTI is disposed at a 110 degree angle to the plane of the web (18) of the stud (14) and at a 15 degree angle from the horizontal, in a vertical section view - Figure 3, column 2, lines 40-47, inherently, the notches (34) of the bracket (26) are disposed at an "incline" to the elongate axis (LA) of the bridging member. Regarding claim 6, naturally, the serrations (34) of MENCHETTI are formed by V-shaped notches; wherein the angle of each V-shape inclines in the same direction. Although MENCHETTI shows a U-shaped bridging member, he details in column 1, lines 38-47, that his system may accommodate V-shaped channel/bridging members (not shown).

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Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent #4,693,047 to MENCHETTI. MENCHETTI discloses the basic claimed stud bridging/spacing system except for explicitly detailing the width of the notches formed in the bracket. Although MENCHETTI does not detail the specific widths of his notches as detailed in claims 7 or 8, he does detail a certain width/thickness of the bridging member to which the bracket is attachable. MENCHETTI details the width/thickness of his bridging member as being 0.025 inches. It would have been well within the ordinary skill of a worker in the art to form the notches to accommodate the bridging member depending upon how tightly the grip between the two members is desired. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a desired notch thickness as an matter of design choice since the selection of a notch thickness is defined to correlate and correspond to the thickness of the bridging member being attached thereto. For instance, in the case of stud member for use with walls being formed in earthquake type environments, an engagement between members the bridging members, studs, and brackets, requires a loose fitting engagement that allows the members to be able to slightly move relative to one another. In this case, the notch width would be selected slightly larger than the width of the bridging member to which it is being attached.

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However, in normal building structures, a more rigid connection having little to no movement between members is required. In this case, the width of the notches might be design to be slightly smaller than the width/thickness of the bridging member thereby creating a tight fit/engagement of the bracket and bridging members.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,693,047 to MENCHETTI in view of US Patent #5,784,850 to ELDERSON. MENCHETTI only details that his bridging member (20) is metal. MENCHETTI does not detail any particular gauge metal. Although, once again, the selection of a particular gauge metal is an obvious matter of design choice that would depend heavily on the type of building/system using the stud arrangement, ELDERSON, details that it is known in the art to form a stud bridging member (16) from 22 -16 gauge metal, column 5, lines 63-67. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the bridging member of MENCHETTI from the gauge metal as taught by ELDERSON, in order to form a structure that is rigid and able to resist deflection thereby limiting bowing or flexing of walls formed therewith.

Allowable Subject Matter

6. Claims 4,5,9,10,13-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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7. Claims 21-24,27-37 and 42-43 remain as being allowed.

8. The following is a statement of reasons for the indication of allowable subject matter:

In reference to claim 21, the prior art of record fails to teach the use of a stud bridging system including an engaging means that is v-shaped and that is removable affixable.

Regarding claims 22-32, the prior art of record fails to teach the use of a stud spacing apparatus including the combination of a bridging member, a stud engager, and a face bracket having angled first portions and a pair of right angled second portions.

In reference to claims 42-43, the prior art of record fails to teach the method of constructing a wall including the step of attaching a bracket after inserting a bridging member. The closest prior art of record, US Patent #4,693,047 teaches the basic method except the bracket has engagers that engage the bridging member and not the stud.

Response to Arguments

9. Applicant's arguments with respect to claims 1 and 4-20 have been considered but are moot in view of the new ground(s) of rejection.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-2909.


YMH

September 2, 2003